

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED
OCT 10 2007
Federal Communications Commission
Office of the Secretary

In the Matter of) EB Docket No. 07-13
)
DAVID L. TITUS) FRN No. 0002074797
) File No. EB-06-IH-5048
Amateur Radio Operator and Licensee of)
Amateur Radio Station KB7ILD)

To: Richard L. Sippel
Chief Administrative Law Judge

ENFORCEMENT BUREAU'S
MOTION FOR CLARIFICATION

1. On October 10, 2007, the Presiding Judge released *David L. Titus*, Order, FCC 07M-38 (rel. Oct. 10, 2007) ("Order"), memorializing bench rulings made by the Presiding Judge at a prehearing conference held in this proceeding on September 19, 2007. The Enforcement Bureau, hereby respectfully requests clarification of the Order.

2. In the second paragraph of the Order, the Presiding Judge appears to make several observations about Mr. Titus' background on the basis of "documents, interrogatories and motions to compel utilized by the respective parties." Given that that Enforcement Bureau has not get gathered or offered all its evidence into the record, the Bureau requests clarification that the observations of the Presiding Judge do not constitute ultimate findings of fact in this case.

3. In the third paragraph of the Order, the Presiding Judge discusses Mr. Titus' initial refusal to provide information about his current employer, rules that such information is relevant, and makes suggestions as to how the Bureau may obtain information about Mr. Titus' current

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place of employment. The Bureau notes, however, that in *David L. Titus*, First Discovery Order, FCC 07M-14 (rel. May 25, 2007) (“First Discovery Order”), at p. 3, the Presiding Judge previously considered the Bureau Motion to Compel Answers to Interrogatories and definitively ruled that “Mr. Titus must . . . disclose the identity of his current employer, his job title, responsibilities, and his supervisor.” The Bureau further notes that on June 12, 2007, in compliance with the First Discovery Order, Mr. Titus provided information about his current employer to the Bureau. The Bureau requests clarification that the Presiding Judge’s discussion in the subject Order does not impose any further or different obligations on the Bureau beyond those referenced in First Discovery Order.¹

4. Among the ordering clauses in his Order, the Presiding Judge directs Mr. Titus, by October 9, 2007, to “categorically state whether or not he intends to retain an expert witness to testify on his behalf.” Order, at p. 2. The Bureau represents that, as of the filing of this Motion, it has not received *any* communication from Mr. Titus regarding his intention to retain an expert witness to testify on his behalf. The Bureau requests clarification from the Presiding Judge whether such failure by Mr. Titus to so “categorically state” his intentions by the close of business on October 9, 2007, is deemed to constitute an affirmative representation by Mr. Titus that he does not intend to retain an expert witness to testify on his behalf in this proceeding.

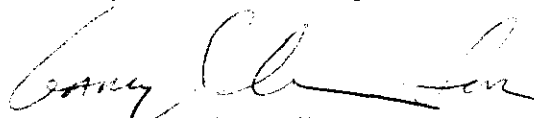
¹ In his First Discovery Order, at footnote 5, the Presiding Judge stated, “If the Bureau decides to contact the current employer, supervisor or co-workers, Mr. Titus must be given ten (10) days written notice in advance of any contact. Such notice may be effected by e-mail to Mr. Titus’ counsel.”

5. Accordingly, the Bureau's respectfully requests clarification of the Order to the extent indicated.

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



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October 10, 2007

CERTIFICATE OF SERVICE

Shonnetta Ennis, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 10th day of October 2007, sent by first class United States mail copies of the foregoing "Enforcement Bureau's Motion for Clarification" to:

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